

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

~~MARY DANIELS, INDIVIDUALLY~~
AND IN HER CAPACITY AS
HEIR OF THE ESTATE OF
THEODORE SCHMERBER,
Plaintiff,

V.

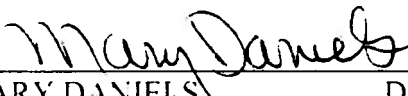
JERAMIAH SMITH AND
DARON SANDERS,
Defendants.

2:08-CV-201
CIVIL ACTION NO. 2:07CV227J

AGREED NOTICE OF DISMISSAL WITH PREJUDICE

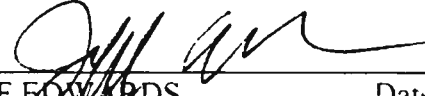
Pursuant to the FEDERAL RULES OF CIVIL PROCEDURE, Plaintiff Mary Daniels, mother of the deceased and one of only two heirs at law to the estate of Theodore Schmerber gives notice that she is hereby dismissing with prejudice all claims asserted against Defendants Smith, Sanders, Rhodeen, Anderson, the Texas Department of Criminal Justice, any employees of TDCJ, whether named or unnamed and officers, and board and board members of TDCJ. Theodore J. Schmerber, father of the deceased and the only remaining heir at law to the estate of Theodore J. Schmerber is in agreement with Plaintiff's dismissal.

Respectfully submitted.



MARY DANIELS
Plaintiff

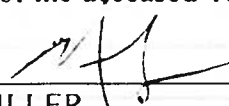
Date Signed



JEFF EDWARDS
Attorney for Plaintiff

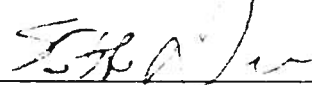
Date Signed

THEODORE J. SCHMERBER
Father of the deceased Theodore Schmerber



H. J. LILLER
Attorney for James Anderson

2/3/09



SETH DENNIS
Attorney for B. W. Rhodeen



SUSAN WERNER
Attorney for Defendants Smith and Sanders

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

DAVID A. TALBOT, JR.
Assistant Attorney General
Chief, Law Enforcement Defense Division

/s/ Susan E. Werner
SUSAN E. WERNER
Assistant Attorney General
Attorney-in-Charge
State Bar No. 21190350

P. O. Box 12548, Capitol Station
Austin, Texas 78711
(512) 463-2080 / Fax No. (512) 495-9139

ATTORNEYS FOR THE DEFENDANT

NOTICE OF ELECTRONIC FILING

I, SUSAN E. WERNER, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing, a true and correct copy of the above an foregoing in accordance with the Electronic Case Files system of the Northern District of Texas, on this the 9th day of February, 2006.

/s/ Susan E. Werner
SUSAN E. WERNER
Assistant Attorney General

CERTIFICATE OF SERVICE

I, SUSAN E. WERNER, Assistant Attorney General of Texas, do hereby certify that true and correct of the above and foregoing **Agreed Notice of Dismissal with Prejudice**, has been served by placing same in the United States mail, certified return receipt requested, postage prepaid, on this 9th day of February, 2009, addressed to:

Jeff Edwards
EVANS EDWARDS LLP
4407 Bee Caves Road, Suite 611
Austin, Texas 78746
Attorney for Plaintiff

Via CM/RRR 7004 2510 0004 1673 0622

/s/ Susan E. Werner
SUSAN E. WERNER
Assistant Attorney General